Filed 3/21/19 In re L.S. CA2/3

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re L.S. et al., Persons Coming Under the Juvenile Court Law.	B286370, B288614 (Los Angeles County Super. Ct. No. DK16226)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. K.S., Defendant and Appellant.	

APPEALS from orders of the Superior Court of Los Angeles County, Emma Castro, Commissioner. Affirmed as modified.

Donna Balderston Kaiser, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, Jeannette Cauble, Principal Deputy County Counsel, for Plaintiff and Respondent.

In the context of the existing dependency of L.S., A.S., and R.S., ages six to three, the juvenile court found true allegations in a subsequent petition (Welf. & Inst. Code, § 342)[1] that K.S. (mother) has a history of substance abuse which renders her incapable of caring for her children, and removed them from her custody (§ 361, subd. (c)). Thereafter, the court terminated its jurisdiction (§ 364) and issued an exit order awarding father sole legal and physical custody and mother monitored visitation. In her first appeal, mother contends there is no evidence to support the subsequent petition or the removal order because she had a medical excuse for her marijuana use and there was no nexus between her drug use and harm to the children. Mother's second appeal challenges two of the reasons listed in form JV-206 for imposing supervised visitation in the exit order. We consolidated the appeals. We order one of the items in form JV-206 stricken and otherwise affirm the challenged orders.

FACTUAL AND PROCEDURAL BACKGROUND

I. The original petition

The parents have a long history of referrals to the Department of Children and Family Services (the Department) alleging neglect of the children's hygiene, the parents' substance abuse, and domestic violence. In 2011, paternal great-aunt V.R.

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[1] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

reported that the parents had marijuana paraphernalia, ashes, pipes, and an " 'edible marijuana chocolate bar' on the table, accessible" to then one-year-old L.S. In 2015, mother was under the influence of a substance when she picked L.S. up at daycare prompting the Department to ask mother to drug test. She failed to appear for the test, and about two weeks later she tested positive for marijuana, a substance she claimed to use for anxiety.

The children became dependents of the juvenile court in July 2016 under a settlement with the Department in which the parents pled no contest to the allegations of father's history of methamphetamine abuse, mother's history of domestic violence with her boyfriend, and her inability to protect the children from the boyfriend who inappropriately physically disciplined L.S. (§ 300, subd. (b).) The court dismissed a count alleging mother's substance abuse.

The petition followed a report from the school that L.S. had been hit, was wearing the same clothing two days in a row, and had dirty hands. L.S. had been acting out and refused to go to class. The family home was dirty and the children had lice. Mother did not work and the family was in the process of being evicted. Mother stated that she needed the men in her life because she struggles financially. She made decisions that put the children at risk while telling the Department that she was protecting them. The Department determined that the risk of future abuse or neglect was high.

Father was on probation when the petition was filed, and resided in a sober-living home. He was concerned for the children. Mother left them with him so she could spend time with her new boyfriend. Father sent the social worker pictures of

mother's messy household and of marijuana within reach of the children.

Mother told the social worker that she smoked marijuana at night due to anxiety, a herniated disc, and insomnia. She claimed she only smoked after the children went to bed. Mother stated her "levels are low and within what is *prescribed to me*." (Italics added.) Yet, she did not provide confirmation of her medical excuse.

For the case plan, the court ordered mother to (1) submit to random or on-demand drug and alcohol testing biweekly and to enter a full drug rehabilitation program if she missed any test or her positive results were above 500 ng/ml. The court also ordered her (2) to join a domestic violence support group, (3) to undergo individual counseling, and (4) to complete a parenting course by the time of the disposition hearing. The court placed the children with mother under the Department's supervision.

II. Mother did not comply with her case plan

At first, mother was cooperative, enrolled in family preservation services, and obtained subsidized childcare. However, throughout the dependency, she logged positive drug test results for marijuana. She failed to appear for tests more often than not, or she arrived after the demand for the test had expired, both of which scenarios also count as positive results. Often, when mother actually tested, she produced results exceeding her allowed limit. Moreover, mother was unstable. She moved five times between March 2016 and May 2017, each time because she was asked to leave for failing to contribute to the children's care. Each move forced the older two girls, L.S. and A.S., to change schools.

The first move occurred around March 2016, when mother lost her housing and left L.S. and A.S. with the paternal great-aunt, V.R. According to V.R., the children had stayed with her so many times that they knew the household rules, although L.S. had a problem with lying. Mother initially decided to keep R.S. with her and asked the Department for motel vouchers. She then decided to place R.S. with the paternal grandmother. Everyone agreed with this arrangement for the children, as long as mother visited and provided financial support.

This plan also freed mother to look for work, care for L.S. and A.S., and complete her case plan. Instead, she focused on herself and R.S. Because the children were no longer with her, mother's family preservation services were terminated. Upset and frustrated by mother's lack of concern for the children's well-being, in September and again in November 2016, V.R. asked the Department to remove the girls from her home. Not only was mother inconsiderate and disrespectful, but she failed to visit the children at all, hardly ever called them or asked to speak to them, and provided no financial help, notwithstanding she continued to receive food stamps and cash aid for the children. V.R. could no longer leave work early or pay for after-school programs, and was tired of watching mother post on Facebook about going to dinner and drinks, and having her hair and nails done. The paternal grandmother also became exasperated after mother took R.S. to Universal Studios. The Department returned the children to mother in early November 2016 and warned her that it would detain them if she missed any drug tests. The family moved in with the maternal grandmother for a month.

The family moved a third time in December 2016, to the maternal grandfather and his wife's house in Ventura County.

Mother began looking for employment but lost family preservation services again as she had moved out of Los Angeles County.

Five months into the dependency, mother had not yet enrolled in court-ordered individual and domestic violence counseling and was still producing positive drug test results. The Department reported that the risk of abuse or neglect by mother was high and recommended that the court continue the dependency for three more months.

The maternal grandfather asked mother to move out of his house in February 2017 because she again irresponsibly left the children at home while she went out with her friends after work. Following this fourth move to the home of a friend, mother stopped communicating with the Department and did not enroll the girls in school.

The status review report for mid-April 2017, stated that mother had not yet complied with her case plan. Still, the Department reduced the risk of abuse or neglect by mother to " 'moderate,' " and recommended that the dependency terminate "as there is no safety concerns at this time." It reasoned that mother had found work and had obtained a section 8 voucher. Thus, she was meeting the children's basic needs and father was taking a supportive role so she could work.

III. The subsequent petition (§ 342)

Just two weeks later, the Department detained the children because mother had still not complied with the court-ordered service plan, stopped communicating with the Department, and was not meeting the children's needs as she failed to enroll the older ones in school. Only after father took the initiative to get mother to sign the paperwork could the children resume

schooling. Continuing in her pattern, mother dropped the girls off with father, who had moved into his own unfurnished apartment, and refused to give him money to help with their care. R.S. stayed with mother during the week because father, who works, had no childcare for him. Although father found daycare near his house, mother refused to put R.S. there.

Both father and the school observed worrisome behaviors in the older children. L.S. had very poor boundaries, found it difficult to follow rules and instruction, and needed attention from strangers. A.S. had trouble separating herself from father. The Department believed that this could be the result of changing schools five times in one year, changing residences four times in one year, or exposure to mother's new boyfriend, who A.S. described as having "pow, pow R[.S.]" and L.S. described mother's new boyfriend as yelling louder than mother does and scaring her.

The ensuing supplemental petition at issue alleges one count under section 300, subdivision (b) that mother has a history of substance abuse and is a current abuser of marijuana, which renders her incapable of providing regular care for the children. Mother failed to regularly participate in court ordered random drug testing, and on prior occasions she was under the influence of marijuana while the children were in her custody. The children are of a young age and require constant care and supervision but mother's substance abuse interferes with the provision of regular care and endangers the children's health and safety, and places them at risk of serious physical harm.

The Department's report summarized mother's drug testing history that violated the court's orders and restored its assessment of risk of future abuse and neglect to high.

The juvenile court detained the children from mother and placed them with father. It ordered mother to notify the Department of her new address within 24 hours of moving. It also ordered mother to "obtain a letter from her *treating doctor* recommending mother's use of medical marijuana to *treat her medical condition*." (Capitalization omitted & italics added.)

Instead, mother submitted a medical marijuana card she had obtained on May 19, *2016*. The "PHYSICIAN'S STATEMENT" under Health and Safety Code section 11362.5, the medical marijuana law, read "*This is not formal prescription . . . . This recommendation is in no way to be interpreted as a prescription as defined under Federal Law. It is merely a recommendation that adopts the legal provisions* of California Health and [S]afety [Code] [s]ection 11362.5 . . . . *If the above patient is prohibited by court order . . . to use cannabis, this recommendation is voided*." (Italics added.) The card expired on May 19, 2017, just after the Department filed the section 342 petition.

As for the doctor's note, mother stated that she had been trying to get a Medi-Cal card but it was "not working." Yet, she neither followed up with her liaison worker nor went to the Department of Public Social Services (DPSS) in person.

The Department's last report before the jurisdiction and disposition hearing reflected that mother started part-time work, enrolled in counseling, but not with an approved therapist, and moved in with her new boyfriend. L.S. stated that living with mother " 'wasn't good. [Her] mom yells a lot.' " Mother twice rescheduled a child and family team meeting but never attended one. Father reported that mother helped with providing rides to appointments and picking the children up from school. The

Department determined that mother needed to continue working on obtaining a treating physician's note, attending counseling, providing stability for the children, and coparenting by communicating with father. She also needed to demonstrate bonding and healthy attachment when visiting the children.

Mother complained to the Department that its report did not reflect: her completion of a parenting course; her successful coparenting with father; or her enrollment in individual counseling. She did acknowledge, however, that *she never enrolled in a domestic violence support group*.

The juvenile court sustained the subsequent petition. It then ordered the children removed from mother's physical custody and placed them with father, awarding mother monitored visitation. Mother filed her first appeal.

IV. The termination order

In advance of the hearing under section 364, the Department reported that the children were doing well in father's care and assessed the risk to the children in father's care as low.

In contrast, the risk under mother's care was moderate. A problem occurred during a monitored visit in August 2017 when mother announced to the children that she was pregnant, without first consulting with the children's therapist. Mother's poor judgment caused the children to regress to old behaviors.

Nor was mother in compliance with her case plan. Although she maintained contact with the social worker, completed a parenting course, and had begun counseling, she never enrolled in the domestic violence support group. And, she continued to violate the drug testing component. She missed either drug tests or tested positive, and she produced no negative test results or results below the threshold. Mother claimed she

was denied entry to a drug treatment program because she told them she did not have a drug problem.

On November 16, 2017, a Dr. Richard Bardowell wrote that he " 'recognize[d] and approve[d] . . . [mother] to use cannabis for hyperemesis and pain.' "

Following the Department's recommendation, the juvenile court terminated its jurisdiction and issued a family law exit order awarding father sole physical and legal custody and monitored visits for mother. In the ensuing exit order, the court listed in form JV-206 that the reasons for supervised visitation were mother's failure to complete or to make substantial progress in (1) drug abuse treatment, (2) domestic violence support group, (3) parenting classes, or (4) individual therapy. Mother filed her second appeal.

DISCUSSION

I. The order sustaining the subsequent petition is supported by the evidence

We are mindful that the juvenile court already had jurisdiction over these children under the original petition because of domestic violence, and mother has not joined the domestic violence support group and has only just begun the counseling that the court ordered in July 2016. These facts alone support the court's exit order.

The subsequent petition at issue in this appeal addresses facts and circumstances not already sustained in 2016. (§ 342.) Jurisdiction under subdivision (b)(1) of section 300 requires substantial evidence of three elements: (1) a parent's failure or inability to adequately supervise or protect the children "in one of the specified forms, (2) causation, and (3) serious physical harm to the child, or a substantial risk of such harm." (*In re*

Alexzander C. (2017) 18 Cal.App.5th 438, 448.) We review an order sustaining a subsequent petition for substantial evidence. "[T]he issue is whether there is evidence, contradicted or uncontradicted, to support the finding. . . . [The appellate court] reviews the record in the light most favorable to the challenged order, resolving conflicts in the evidence in favor of that order, and giving the evidence reasonable inferences." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 450–451 (*Alexis E.*).)

Mother contends that there is no evidence to support the finding she abused marijuana and no nexus between her legal, medical marijuana use and neglect of her children. She observes first that there was nothing new in the section 342 petition, and that the Department filed it only because she failed to maintain contact with the social worker when she left Los Angeles County. The purpose of a subsequent petition is to address new facts or circumstances not already sustained *that warrant continuation of jurisdiction*. (*In re Victoria C.* (2002) 100 Cal.App.4th 536, 542.) The section 342 petition was filed because the Department had recommended, and the juvenile court was considering, terminating the dependency. But the Department immediately recognized that continued dependency jurisdiction and supervision were required because mother persisted in abusing marijuana and in failing to supervise or protect the children.

Mother contends there is no evidence that she has a substance abuse problem because she was not medically diagnosed with substance abuse. But, a medical diagnosis is not a prerequisite to jurisdiction. (*In re Rebecca C.* (2014) 228 Cal.App.4th 720, 725; see *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1217–1218.) Rather, a finding of substance abuse can be premised on a finding of " 'recurrent substance use

resulting in a failure to fulfill major role obligations at work . . . or home (e.g., . . . neglect of children or household).' " (*In re Drake M.* (2012) 211 Cal.App.4th 754, 766.)

Mother's drug abuse is persistent since at least 2011. She has missed more drug tests than she has taken, and as recently as April and May 2017, she produced results that are double the threshold amount to trigger entry into a full drug rehabilitation program.[2] The record is also replete with examples of mother's failures to fulfill major role obligations, including her habitual unemployment, her dirty home and children, her practice of leaving the girls with relatives without financial support and without visiting them, and her recurring loss of housing which forced the girls to change schools four times. We recognize that homelessness because of poverty is not alone a reason to sustain a section 300 petition. (*In re G.S.R.* (2008) 159 Cal.App.4th 1202, 1212.) Here, however, the court could reasonably conclude that mother's peripatetic lifestyle was not simply the result of poverty, but of choice. V.R., the maternal great-grandmother, maternal

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[2] Mother argues that the 500 ng/ml limit was arbitrary and she had no notice of it. Of course, this limit was ordered in her case plan in July 2016 and so she has long since forfeited any challenges to that limit. (*Marlene M. v. Superior Court* (2000) 80 Cal.App.4th 1139, 1149.) Moreover, *mother signed the case plan* when it was devised, and the Department has since warned mother that should she miss drug tests, it would detain the children from her. Thus, she has been on notice for over a year what was required of her. Mother's inability to limit her use to the court-ordered amount combined with her repeated failure to show up for tests leads to the reasonable inference that mother's marijuana use was more extensive than what the Department saw. (See *In re Natalie A.* (2015) 243 Cal.App.4th 178, 186.)

grandfather, and father, each stated that all of mother's moves but one were precipitated by her failure to help financially support the children despite her receipt of cash assistance, food aid, and family services. While the relatives struggled to care for her children, mother took R.S. to Universal Studios, and posted on Facebook about how she was going out to dinner and drinks and getting her hair and nails done. The juvenile court could reasonably find that mother's marijuana abuse contributed to her failure to supervise the children (see *In re Natalie A.*, *supra*, 243 Cal.App.4th at p. 186) and so she meets the *Drake M.* definition of substance abuse.

Mother insists that her marijuana use is medically indicated and legal. But, mother had not demonstrated medical necessity as of the jurisdiction hearing by providing a treating physician's note. She gave excuses for this omission, but had not followed through. Instead she relied on the expired medical marijuana card, which, as the juvenile court noted, anyone could obtain for a price. More important, mother's extensive use of marijuana, dating back at least to 2011 and purportedly for anxiety only, precedes the medical marijuana card and her herniated disc claim, by five years, and the doctor's note by six and a half years. Thus, mother was self-medicating illegally before even the marijuana card's purported recommendation. As explained in *Alexis E.*, *supra*, 171 Cal.App.4th at page 451 in similar circumstances, mother's use of marijuana was no different than if she were using, without a prescription, a medication a treating physician might have actually prescribed for her and supports a finding of a history of substance abuse.

We are unpersuaded by mother's claim that marijuana smoking is legal and hence not a basis for a section 300,

subdivision (b)(1) finding. As we also explained in *Alexis E.*, *supra*, 171 Cal.App.4th 438 "even legal use . . . can be abuse if it presents a risk of harm to minors." (*Id.* at p. 452, citing *In re Samkirtana S.* (1990) 222 Cal.App.3d 1475 [mother's alcohol abuse caused risk of harm to children even though alcohol is legal].) The Legislature has declared that "[t]he provision of a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child." (§ 300.2.) "We cannot fathom that the Legislature intended that negative effects on children from marijuana smoke would be unacceptable if it were being smoked outside the medical marijuana law, but acceptable if the person smoking the substance in their home were doing it legally." (*Alexis E.*, at p. 452.)[3]

Next, mother challenges the sufficiency of the evidence of causation, the second element under section 300, subdivision (b)(1). (*In re Alexzander C.*, *supra*, 18 Cal.App.5th at p. 448.) Although the mere use of marijuana by a parent will not support a finding of risk to children (*Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322, 1345–1346), the risk to the children here is clear. Mother has left drugs lying within the reach of the children. She also uses edibles during the day when the children are in her custody. And, she smokes in the house when the children are sleeping, putting the children at risk of the negative effects of secondhand marijuana smoke. (*Alexis E.*, *supra*, 171 Cal.App.4th at p. 452.) As we have clearly explained, a

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[3] That mother has since obtained a doctor's note does not undermine her past abuse and the harm to the children that it brought.

reasonable inference to be drawn from Health and Safety Code section 11362.79's prohibition on the lawful use of marijuana within 1,000 feet of children, is that "use of marijuana near others can have a negative effect on them." (*Alexis E.*, at p. 452.)[4] Mother is absolutely unconcerned about the negative effects on the girls of constant changes in housing and schools, their exposure to violence by mother's boyfriends, to secondhand smoke, or to the behavioral signs of the impact of her conduct. Mother's failure to adequately supervise and protect these young children places them at substantial risk of serious physical harm. The record amply supports the order sustaining the subsequent petition.

II. The juvenile court did not abuse its discretion in denying mother a continuance

Mother was present at the May 3, 2017 detention hearing. There, she agreed to the date of June 22, 2017 for the jurisdiction and disposition hearing on the subsequent petition, asked for no time waiver for that hearing, and heard the court order her to appear without further notice. Still, the Department sent mother notice of the hearing *containing its recommendation to give father custody of the children*. Mother read the Department's report for

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[4] "Health and Safety Code section 11362.79 [provides] that nothing in the . . . provisions for the state's voluntary medical marijuana program (Health & Saf. Code, § 11362.5 et seq.) authorizes a person lawfully using medical marijuana to use it 'within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence,' or . . . on a school bus, . . . in a motor vehicle [or boat] that [are] being operated." (*Alexis E.*, *supra*, 171 Cal.App.4th at p. 452.)

that hearing and even telephoned the social worker to clarify some of its facts. Then she failed to appear on June 22, 2017.

Mother contends that the juvenile court abused its discretion by denying her a continuance of the disposition portion of the June 22, 2017 hearing.

Section 358, subdivision (a)(1) gives the juvenile court discretion to continue the disposition portion of the adjudication hearing. However, no continuance shall exceed 10 judicial days if the children are detained during the continuance. (*Ibid.*) Moreover, continuances are discouraged in dependency cases. (*In re Elijah V.* (2005) 127 Cal.App.4th 576, 585.) No "continuance shall . . . be granted that is contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements. [¶] . . . Continuances shall be granted *only upon a showing of good cause* and *only for that period of time shown to be necessary*." (§ 352, subd. (a)(1), (2), italics added.) Absent "exceptional circumstances," if a child is detained, the dispositional hearing must be completed within 60 days of the detention hearing. (*Id.*, subd. (b).) "We review the denial of a continuance for abuse of discretion." (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 605.)

Mother was inexplicably absent at the scheduled jurisdictional and disposition hearing. She requested a continuance of unknown duration, without proffering cause, let alone good cause or exceptional circumstances. She made the request 50 days after the hearing was set, and just 10 days before the section 352 subdivision (b) deadline. The juvenile court

reasonably denied the request. These children deserve prompt finality of their status.

Mother was not denied due process. She had both oral and written notice. She failed to explain to the juvenile court or on appeal what she would have presented on the issue of removal, that was not already in the Department's reports or the record in general, had she appeared. The juvenile court had the entire record, including the Department's reports, and mother never requested that the social worker be present at the hearing for cross-examination. She listed her facts for the social worker when she called about the Department's latest report. Together, mother's statements and the record showed that mother completed a parenting course; had commenced individual counseling with an unapproved therapist; and she was cooperating with father. Yet, mother does not suggest that she has since complied with the requirements to join a domestic violence support group, or that she switched to an approved therapist. Nor does she indicate that she had obtained a treating doctor's recommendation to use marijuana for pain or even scheduled an appointment with a physician or the DPSS for Medi-Cal by the June 22, 2017 hearing. In short, mother had procedural due process as she had ample notice of the hearing and an opportunity to be heard. (See *In re Matthew P.* (1999) 71 Cal.App.4th 841, 851 ["due process focuses on the right to notice and the right to be heard"].)[5]

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[5] Mother does not argue that she was denied substantive due process. The dependency scheme provides parents with substantive due process and fundamental fairness by safeguarding their rights. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 307–308.)

We disagree with mother's next contention that the juvenile court's erroneous ruling was prejudicial beyond a reasonable doubt. Mother's lack of participation in her case plan is well-documented; she was the one who reported that she never joined a domestic violence group. And her drug-testing results are everywhere in the record. We perceive no reasonable probability that the outcome would have been different if mother had appeared at the disposition hearing. (*In re Celine R.* (2003) 31 Cal.4th 45, 60.) And, in view of the harm to these children because of mother's behavior, we see no reasonable probability that the dispositional order removing the children from mother's custody would have been different.

III. The removal order was supported by substantial evidence

The juvenile court may remove a child from his or her parents' custody only upon a finding, by clear and convincing evidence, that there "is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent." (§ 361, subd. (c)(1).) We review a removal order for substantial evidence. (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

Here, substantial evidence supports the juvenile court's findings by clear and convincing evidence that the children would face substantial danger to their health and safety if they were returned to mother's custody. The two jurisdictional findings already constitute this finding by a preponderance of the evidence. Mother's unresolved drug use, her unaddressed history of domestic violence, her failure to provide the children with clean and stable housing and consistent schooling, and her

inattentiveness to their health needs or their concerns about her boyfriends, are all reasons to conclude, by clear and convincing evidence, that it would be unsafe to return these young children to mother's custody. There is also substantial evidence to support the court's finding by clear and convincing evidence that no reasonable means short of removal would protect these children. Mother has a proven track record of flouting the court's orders and so any plan short of removal would require her to cooperate.

Mother argues that circumstances have improved since the first petition was filed in March 2016 and as of the dispositional hearing, she and father have worked out joint care of the children. However, this does not negate the substantiality of the evidence supporting the juvenile court's removal order. Although commendable, any progress is extremely recent and insufficient to eliminate the issues that justified removal.

IV. The exit order

" 'When a juvenile court terminates its jurisdiction over a dependent child, it is empowered to make "exit orders" regarding custody and visitation. [Citations.] Such orders become part of any family court proceeding concerning the same child and will remain in effect until they are terminated or modified by the family court.' " (*In re A.C.* (2011) 197 Cal.App.4th 796, 799, citing §§ 364, subd. (c), 362.4.)

Mother does not challenge the termination of jurisdiction or the award to father of sole legal and physical custody. She cannot do so, as she agreed to this plan in open court. Instead, mother contends that of the four reasons for supervised visits listed in the exit order's JV-206 form, there was no evidence to support the court's findings that she had not completed or made

substantial progress in (1) drug abuse treatment and (2) a parenting class.

Mother's belief that she was not a drug abuser, and her declaration of that conclusion to the drug treatment program does not negate the juvenile court's findings and orders, or the fact that she made no progress in fulfilling this requirement. On appeal, mother argues that there was no legal necessity that she participate in a drug abuse treatment program because she had finally obtained a letter from her treating physician. Although her current use of marijuana might be justified by her treating physician, as we noted: "even legal use . . . can be abuse if it presents a risk of harm to minors." (*Alexis E.*, *supra*, 171 Cal.App.4th at p. 452.) The doctor's note aside, mother had yet to address the consequences to her children of her continuing drug abuse.

As for the parenting class, the record contains an almost illegible certificate indicating that mother completed a parenting class at Cornerstone Counseling Center in March 2017. Accordingly, that portion of the JV-206 form must be stricken. However, the order for monitored visitation stands because mother has not completed or made substantial progress in the remaining reasons listed in the JV-206 form.

Mother's parental rights to L.S., A.S., and R.S. were not terminated. Instead, the juvenile court merely terminated its jurisdiction with a family law exit order (§ 364). Mother may always seek modification or termination of the exit order in the family court. (*In re Jennifer R.* (1993) 14 Cal.App.4th 704, 714; *In re A.C.*, *supra*, 197 Cal.App.4th at p. 799.)

DISPOSITION

The portion of the exit order listing mother's failure to complete a parenting class as a reason for her supervised visitation with the children is ordered stricken. As so modified, the orders are affirmed.

NOT TO BE PUBLISHED.

DHANIDINA, J.

We concur:

LAVIN, Acting P. J.

EGERTON, J.